

IN THE COURT OF THE JUDGE, FAMILY COURT,  
BHUBANESWAR.

Present : Shri Pravakar Mishra, OSJS (SB),  
Judge, Family Court, Bhubaneswar.

Civil Proceeding No. 59 of 2013

Mrs. Ranjita Dash, aged about 27 years,  
W/o-Pradeep Kumar Mishra,  
D/o-Krushna Chandra Dash,  
Resident of Qr. No. F-19/6, At/P.O.-Hirakud,  
Dist-Sambalpur.  
At present residing at Sub-Plot No. 3, Plot No. 7,  
Barsha Village, Near Damana High School,  
P.O.-Chandrasekharapur, Bhubaneswar,  
Dist-Khurda.

... Petitioner

... Versus...

Mr. Pradeedp Kumar Mishra, aged about 35 years,  
S/o-Digambar Mishra,  
Resident of Nua Jamda,  
P.O./P.S.-Hirakud, Dist-Sambalpur.

... Respondent

Date of Argument : 22.12.2014

Date of Judgment : 06.01.2015

J U D G M E N T

This order arises out of a petition u/s. 13 (1) of the Hindu Marriage Act, 1955 (in short, the Act 1955) praying for a decree of dissolution of marriage of the petitioner with the respondent on the ground of cruelty and permanent alimony of Rs. 40,00,000/- from the respondent.

2. The facts of the case of the petitioner are as follows:-

The marriage of the petitioner with respondent was solemnized as per Hindu Custom and rites at Hirakud in the district of Sambalpur on 23.11.2010. According to the petitioner, at the time of marriage, the respondent was serving as Assistant Manager (Accounts) in Blue Fox Project, Hindalco, Hirakud in the district of Sambalpur. It is the further case of the petitioner that at the time of marriage her father had given dowry in shape of articles. The der Tag in their life started when the respondent and his family members started torturing when she refused to met the additional demand of dowry of Rs. 1,00,000/- for purchasing of a vehicle. The respondent and his family members threatened to kill her in the month of August 2011 and when she came to know that the respondent and his family members are planning to murder her, she intimated this matter to her parents. Hearing such information, her father sent her maternal uncle and some neighbours to the house of the respondent to settle the matter but all were in vain. When their all attempts for settlement were in vain, they took her to her parental home. Thereafter, the respondent and his family members along with some other persons came to his parental home and tried to forcibly take her back. She has lodged an F.I.R. in Mahila Police Station Sambalpur on 23.09.2011 vide Mahila P.S. Case No. 24 of 2011 U/s. 498 (A), 406, 506/34 I.P.C and U/s. 4 of the D.P. Act. During investigation, the dowry articles were seized and given in her zima but the respondent did not return the gold ornaments to her. In the night of 23.11.2010 she found the respondent in the room of Sasmita Mishra, wife of his elder brother namely Prabhat Mishra and the door of that room was closed. The respondent always avoided for any physical relationship with her as he had kept illicit relationship with her sister-in-law (bhauja) before and after marriage. Due to the above reasons the respondent and his family members tortured her in order to compel her to commit suicide or to leave his house. When the torture became unbearable she was forced to leave her matrimonial house on 14.08.2011 and since then she has been residing in her parental home. It is the further case of the petitioner that the respondent is

-serving as Assistant Manager (Accounts) in Blue Fox Project, Hindalco, Hirakud, Dist-Sambalpur and is getting monthly salary of Rs. 65,000/-. Hence, the petitioner has filed this proceeding seeking a decree of divorce on the ground of cruelty.

3. The respondent did not enter contest the petition and therefore, is set ex-parte.

4. The question that requires to be adjudicated is whether, there exists any cruelty on the part of the respondent to allow the petition for divorce and whether the petitioner is entitled to permanent alimony?

5. The petitioner in order to buttress her case she, herself, has been examined as P.W.1 and relied on six documents. They are:- Ext.1 is the Marriage Invitation Card, Ext. 2 is the certified copy of F.I.R. in G.R. Case No. 1755/2011 in the Court of S.D.J.M. Sambalpur, Ext. 3 is the certified copy of chart sheet in G.R. Case No. 1755/2011, Ext. 4 is the certified copy of the order sheet in pre-litigation case No. 62/2011, Ext. 5 is the certified copy of order sheet in C.M.C. No. 315/2011 in the court of S.D.J.M., Sambalpur and Ext. 6 is the certified copy of order in Mediation Case No. 25/2012 in C.M.C. No. 315/2011.

6. The petitioner sought divorce on the ground of respondent's cruelty. She has deposed about the maltreatment of the respondent towards her. Her statement is facsimile to the allegation made in petition which have gone unchallenged as there has been no cross examination since the respondent has been set ex-parte. Law is well settled that when a statement of a witness gone unchallenged, the same must be accepted as true. Therefore, the statement of P.W. 1 is accepted as true. Admittedly, there has been no cohabitation between the parties since 14.08.2011. From the unchallenged evidence of the petitioner, it is clearly established that the respondent without any rhyme or reason willfully withdrew the cohabitation with the petitioner. There is no evidence on record that denial of sexual intercourse is the result of sexual weakness of the respondent disabling her from having a sexual union

with the petitioner but it was willfully refused by the respondent. The result, is frustration and misery to the petitioner due to denial of normal sexual life and hence cruelty. Sex is the foundation of marriage and without a vigorous and harmonious sexual activity it would be impossible for any marriage to continue for long. It cannot be denied that the sexual activity in marriage has an extremely favourable influence on a woman's mind and body. The result being that if she does not get proper sexual satisfaction it will lead to depression and frustration. It has been said that the sexual relations when happy and harmonious vivifies a woman's brain, develops her character and trebles her vitality. It must be recognized that nothing is more fatal to marriage than disappointment in sexual intercourse. Further the petitioner has stated that the respondent refused for any sexual relationship since 14.08.2011, as the respondent has illicit relation with his elder sister-in-law. Keeping illicit relationship with her sister-in-law (bhauja), demanding additional demand of dowry of Rs. 1,00,000/- and attempting to kill her which are emerged out from the evidence P.W. 1 are additional circumstances of the cruelty and therefore, the petition of the petitioner deserves merit to be allowed.

7. Now, the next point for discussion is about permanent alimony. The petitioner has stated that she is a house wife and the respondent is working as Assistant Manager (Accounts), in Blue Fox Project and is getting a monthly salary of Rs. 65,000/-. However, she has failed to lead any positive documentary evidence with regard to the above income of the respondent and thus, in this fact situation, it is bit difficult on the part of the Court to fix the permanent alimony. Be that as it may, this Court as an interim measures allowed a monthly permanent alimony of Rs. 10,000/- to the petitioner. Hence, it is ordered;

#### ORDER

The petition is allowed ex-parte in favour of the petitioner. A decree of divorce is passed and the marriage between the petitioner and the respondent

is hereby declared dissolved with effect from the date of decree. The respondent is directed to pay a monthly permanent alimony of Rs. 10,000/- to the petitioner from the date of filing i.e. 07.02.2013.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 6<sup>th</sup> day of January, 201.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Witnesses examined for the petitioner:

P.W.1 Mrs. Ranjita Dash

Witnesses examined for the respondent:

None

List of documents by petitioner:

- Ext. 1 Marriage Invitation Card  
 Ext. 2 Certified copy of F.I.R. in G.R. Case No. 1755/2011 in the court of S.D.J.M, Sambalpur.  
 Ext. 3 Certified copy of charge sheet in G.R. Case No. 1755/2011  
 Ext. 4 Certified copy of order sheet in pre-litigation Case No. 62/2011.  
 Ext. 5 Certified copy of order sheet in C.M.C. No. 315/2011 in the court of S.D.J.M., Sambalpur  
 Ext. 6 Certified copy of order in Mediation Case No. 25/2012 in C.M.C. No. 315/2011

List of documents by respondent:

Nil

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